



TEXAS TASK FORCE ON INDIGENT DEFENSE

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www.courts.state.tx.us/oca/tfid

Formula Grant Program

Requests for Applications (RFA)

August 24, 2006

Total Grant Amount Budgeted for Statewide Use Available:

FY2007- \$12 million (estimated)

Type of Grant

Formula - The Task Force distributes funds to counties through a formula that sets a \$5,000 floor per grant with the remainder based on a county's percent of population (estimated by the Texas Data Center in the preceding year) multiplied by the Task Force's remaining budgeted amount for formula grant. Counties must meet minimum spending requirements to qualify.

Eligibility:

Only Texas counties may apply. See further eligibility below.

Grant Applications Due:

All applications must be submitted on-line. Applications must be completed and submitted by **October 23, 2006**. See submission requirements below for waiver requests and other deadlines.

Method of Application:

On-line submission at <http://tfid.tamu.edu>. All county judges have been assigned a unique user name and password. See contact information below for access to the system.

Time Period for Funding:

October 1, 2006 through September 30, 2007

All grants awarded will require at least one follow-up report outside of the time period.

Commissioners Court Resolution Required:

This application is submitted on-line but requires a commissioners' court resolution/internet submission form be adopted and faxed/mailed. The resolution is generated by the on-line system and must be printed out from the on-line application page.

Funding:

Funds will be distributed in four (4) disbursements for this fiscal year for most counties.

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Steps in Submitting a Grant Application

- 1) Log onto <http://tfid.tamu.edu> (Follow on-line page instructions).
- 2) Verify that the online screen indicates the appropriate grant officials and judicial officials.
- 3) Verify on-line that Task Force records indicate that submitted county-wide plans are in compliance and meet the grant eligibility requirements. Contact Task Force staff to discuss compliance issues.
- 4) Certify the application complete by sending in the Resolution / Internet Submission Form along with any required plan documents.

Applicable Authority and Rules

Texas Government Code Section 71.062
Texas Administrative Code Chapter 173
Uniform Grant Management Standards (UGMS)

Formula Grant Program

A. Introduction

Formula Grants are provided by the Task Force on Indigent Defense (Task Force) to help the Task Force meet its statutory mandates and to promote Texas counties' compliance with standards adopted by the Task Force.

Formula grants provide money to counties for increased indigent defense costs based on a formula set by the Task Force. Qualifying counties are eligible for funds determined by the formula only to the extent their spending exceeds spending in their baseline year. The current formula provides that all counties are eligible for a \$5,000 "floor." The remaining funds set aside by the Task Force for these purposes are then allocated based on the counties' percent of the State of Texas' population estimate as determined by the Texas Data Center for the preceding year. Other grant distribution formulas may be considered in the future as more data becomes available. Counties must meet minimum spending requirements to receive credit for spending the funds.

The grant period for this application is October 1, 2006 through September 30, 2007. Expenses must be incurred and /or obligated during this time.

B. Eligibility

1. **Only counties are eligible to apply for funds**
2. **Indigent Defense Information (Countywide Plans) must be in compliance with applicable statutes and standards** - Local Administrative District Judges, Local Statutory County Court Judges (or County Judge as applicable) and the Chairs of Juvenile Boards must submit their countywide indigent defense plans, procedures and forms to the Office of Court Administration as required in Government Code Section 71.0351. The plans must meet the following minimum plan eligibility requirements set by the Task Force:

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- a) The plan(s) specify that each accused person will be brought before a magistrate within 48 hours of arrest for proceedings under Article 15.17 of the Code of Criminal Procedure
- b) The plan(s) specify that when an eligible defendant submits the required documents for the appointment of counsel, the request and documents required will be transmitted to the appointing authority within 24 hours of the request.
- c) The plan(s) specify that the appointing authority will appoint counsel for eligible defendants within one working day of receiving the request (counties with population of 250,000 and above) or within three working days of receiving the request (counties with population under 250,000).
- d) A copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent juvenile respondents with counsel in accordance with the Code of Criminal Procedure and Family Code Chapter 51 have been adopted by the courts and juvenile boards and have been submitted or will be submitted to the Office of Court Administration on or before November 1, 2005.
- e) The county has adopted an attorney fee schedule in accordance with Article 26.05, Code of Criminal Procedure that addresses the following issues:
 - i. The plan(s) specify a schedule of attorney fees that covers all criminal cases for which punishment by incarceration may be imposed.
 - ii. The plan(s) specify procedures for payment of expenses, including expert and investigator fees, incurred with prior court approval.
 - iii. The plan(s) specify procedures for payment of expenses, including expert and investigator fees, incurred without prior court approval.
 - iv. The plan(s) specifies that no payment shall be made until the form for itemizing the services performed is submitted to the judge presiding over the proceedings and the judge approves the payment.
- f) The plan(s) specify procedures and documentation to meet minimum attorney Continuing Legal Education (CLE) standards set by the Task Force (1 TAC §§174.1 - 174.4).

C. Direct Disbursement Pool

If a county has had to refund money or has not received grant funds in the previous year, please consider not applying for the formula grant and the county you will be eligible for the Direct Disbursement Pool. Counties with low incidence of crime and low indigent defense expenses may choose to not submit the application. They will be eligible under the Task Force Direct Disbursement policy and procedures. This policy of the Task Force is to reduce application procedures for counties that have both low incidences of crime and low indigent defense costs. The policy governing reimbursement of eligible expenses under this policy vary depending on whether a county spent any of the formula grant funds in the preceding year.

A county that has not spent any formula grant funds in the preceding year and does not apply for a formula grant in the current fiscal year may submit receipts for direct

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disbursements. If it experiences indigent defense costs above its baseline year amount, such a county is eligible to receive up to twice the amount of the initial allocation of funds for the county under formula grant program as established by the Task Force prior to issuing the Request for Applications.

A county that spent a portion of the formula grant funds in the preceding year and does not apply for a formula grant in the current fiscal year may submit receipts for direct disbursements. If it experiences indigent defense costs above its baseline year amount, such a county is eligible to receive up to the amount of the initial allocation of funds for the county under formula grant program as established by the Task Force prior to issuing the Request for Applications.

The Task Force on Indigent Defense will budget up to two-thirds of the funds allocated to counties that do not apply for formula grant funds to the direct disbursement pool. Funds will be disbursed from the pool based on a county's compliance with the current year grant eligibility requirement and written documentation that the county has actually expended its baseline year amount plus the amount requested. All payments considered for reimbursement are subject to availability of funds.

Applications with expense information for direct disbursement must be submitted on or before August 15, 2007. The time period for calculating the direct disbursement will be September 1, 2006 through August 15, 2007. A county that applied for formula grant in FY2006 may not include September 2006 in their direct disbursement submission. This change in time period for direct disbursement calculation will not affect the time period for the statutory Indigent Defense Expenditure Report.

D. Notification

This FY06 Formula Grant - Request for Applications is sent to all 254 Texas Constitutional County Judges. A courtesy notice is mailed to all local administrative district judges, local administrative statutory county judges and each county auditor (or treasurer where there is no auditor). The notice informs other county stakeholders to seek a copy of the grant RFA from the constitutional county judge or go to the Task Force website www.courts.state.tx.us/oca/tfid. The Task Force staff uses the contact information provided by counties at our website. Please make sure that all contact information is accurate. Counties are required to maintain correct contact information on the Task Force grant and report website (<http://tfid.tamu.edu>). The notice of grant availability is also published in the Texas Register.

E. Application

The Task Force is committed to reducing paperwork burdens for Texas counties that apply for the grants. Therefore, the grant application process will be electronic.

The application steps are:

- 1) Review the baseline (FY01) – The baseline is the amount counties must spend in indigent defense before they qualify as having spent the grant. Counties that have received or applied for grants in previous years have already established a

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baseline with the Task Force. To meet the requirements under Texas Government Code §71.062(d), the Task Force has adopted as an expenditure baseline of each county's FY01 indigent defense expenditures. Attorney fees, investigator expenses, expert witness expenses, and other litigation expenses that the county paid on behalf of indigent criminal defendants / juvenile respondents are allowable expenses. This information remains static unless a county requests an alternative baseline, as described below.

- a. The baseline amount is used for comparison to determine grant qualification for each year.
 - b. To qualify for grant funds each year, the county must spend an amount at least equivalent to the FY01 baseline.
 - c. A county may apply (with documentation) to the grants administrator for an adjusted baseline if the county can demonstrate:
 - i. the baseline contained extraordinary expenses (major cases, capital cases, etc); or
 - ii. the county's FY01 expenses were not reflective of normal county expenditures prior to the implementation of the Fair Defense Act.
- 2) All applications must be submitted online. Contact the Task Force Grant Administrator for instructions to obtain a waiver to the on-line application.
- 3) If a person other than the recipient of this letter needs to obtain a user name and password, contact The Texas A&M University Public Policy Research Institute (PPRI) – [PPRI manages the collection, storage and retrieval of data for the Task Force]. County officials contact PPRI through e-mail (djohnson@ppri.tamu.edu), fax (888-351-3485) or by regular mail:
Darby Johnson, PPRI
314 H. C. Dulie Bell Building, TAMU, Mailstop 4476
College Station, Texas 77843-4476
PPRI will not provide user names and passwords over the phone. Individuals using personal e-mail accounts may be asked to provide additional information.
 - a) Go to the PPRI Task Force website at <http://tfid.tamu.edu>
 - b) Enter the User ID and Password located on the cover letter in this mailing.
- 4) Apply on-line
 - a. Sign in – The authorized official or designee logs in to the website using a unique username and password and selects “Apply for Formula Grant”. A designee may actually perform the tasks if allowed by the authorized official.
 - b. Review the eligibility requirements – Each year the Task Force adopts specific measures as eligibility requirements for the Formula Grant funds. These measures are intended to encourage each county's compliance with statutory requirements or policy and standards adopted by the Task Force. The grant application screen will reveal the compliance checklist maintained by the Task Force's special counsel. Counties that have blank

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check boxes in any category will not be able to receive funds until they meet all grant program eligibility requirements. **They should complete the on-line application then contact the Task Force for instructions to resolve plan compliance issues.**

- c. Verify that the County's stored information is correct – The authorized official reviews the data the Task Force has stored for the various county grant positions. (**Note:** Please remember to update the county contact information during the grant year as changes in officials or contact information occurs.)
- d. Identify the individuals in the following grant positions as required in Texas Administrative Code Rule 173.301. Make changes as needed.
 - i. Authorized official - This person must be authorized to apply for, accept, decline, modify, or cancel the grant for the applicant county. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official. (**Note:** Some counties prefer to have a district or statutory county judge serve as authorized official since this grant is related to judicial processes – this is acceptable).
 - ii. Fiscal Officer - This person must be the county auditor or county treasurer if the county does not have a county auditor.
 - iii. Program Director - This person must be the officer or employee responsible for program operation or monitoring or implementation of the indigent defense plan and who will serve as the point-of-contact regarding the program's day-to-day operations. (**By rule this person cannot be the financial officer).**

Use the “**Change**” Button – When the person listed is no longer authorized to perform the duties with the Task Force previously authorized by the county. It is also used to change contact information for any grant official. This situation usually arises when county officials turnover as a result of elections, retirements, or some other removal from office.

- e. Select the “**Submit**” button. The page will become a confirmation page at that point. Select the Resolution link to create your county's resolution.
- f. Print / download resolution – The system will allow the user to download a resolution in an MS Word document or provide an opportunity to print the document based on the selections above.
- g. Receive confirmation – The system will provide a confirmation page to the grant officials confirming that the application has been completed and informing them that the resolution must be adopted by the commissioner's court and then faxed to the Task Force. **PLEASE PRINT THE CONFIRMATION PAGE.**

- 5) Mail (postmarked) or fax the resolution adopted by commissioners' court **by October 21, 2006** to the:

Task Force on Indigent Defense
Grant Administrator
205 W. 14th Street – Suite 600

Task Force on Indigent Defense

PO Box 12066
Austin, Texas 78711
Fax (512) 475-3450

F. Review

Approximately 30 days prior to the Task Force meeting set to award the Formula Grants the Grant Administrator will review the application for completeness and notify counties via e-mail, fax, or mail whether any additions or corrections need to be made.

G. Denial of Grant

Counties not completing the grant application process or those not meeting minimum eligibility requirements will be notified by mail within 30 days following the Task Force award meeting.

H. Authorization to Fund

Texas Government Code Sec. 71.062. TECHNICAL SUPPORT; GRANTS

(a) The Task Force on Indigent Defense shall:

(1) provide technical support to:

- (A) assist counties in improving their indigent defense systems; and
- (B) promote compliance by counties with the requirements of state law relating to indigent defense;

(2) direct the comptroller to distribute funds, including grants, to counties to provide indigent defense services in the county; and

(3) monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by directing the comptroller to:

- (A) withdraw grant funds; or
- (B) require reimbursement of grant funds by the county.

(b) The Task Force on Indigent Defense shall direct the comptroller to distribute funds as required by Subsection (a)(2) based on a county's compliance with standards developed by the task force and the county's demonstrated commitment to compliance with the requirements of state law relating to indigent defense.

(c) The Task Force on Indigent Defense shall develop policies to ensure that funds under Subsection (a)(2) are allocated and distributed to counties in a fair manner.

(d) A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided by the Task Force on Indigent Defense under this section

I. Use of Funds

Funds must be used to improve indigent defense systems. Attorneys fees, investigator expenses, expert witness expenses, and other direct litigation costs that a county spends on behalf of a criminal defendant or juvenile respondent in a criminal matter that has been determined by a court of competent jurisdiction to be indigent are allowable expenses. All funds must be spent in compliance with the following:

Texas Administrative Code, Title 1 Administration, Part 8 Texas Judicial Council, Chapter 173 Indigent Defense Grants;

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And Texas Uniform Grant Management Standards

The Task Force on Indigent Defense website maintains links to electronic copies of these documents. Grant applicants/ recipients may contact the Task Force staff in writing for paper copies if no electronic means are available to secure the documents.

J. Statement of Grant Award

Statements of Grant Awards will be prepared exactly as authorized by the Task Force. These may include special conditions. The fax cover page will be directed to the official designated in the resolution adopted by the commissioners' court.

K. Special Conditions

The Task Force may determine special conditions or authorize staff to apply the conditions on criteria set by the Task Force (TAC 173.201). The Task Force may develop special conditions that relate to expenditures, compliance with statutory requirements or standards adopted by the Task Force.

L. Return of Signed Statements

Authorized officials must sign and return Statements of Grant Awards via fax within 30 days from the date of the fax. Each grant award statement will be compared to the resolution to ensure the correct official as authorized by the commissioners' court resolution signed the Statement of Grant Award. Counties that are unable to process the return of the Statement of Grant Award in a timely fashion must submit a written request for an extension.

M. Reports

All counties are statutorily required to submit an Indigent Defense Expenditure Report each year on November 1. In accordance with TAC 173.8 the reporting will be through the internet.

Some counties may have special conditions on their Statement of Grant Award that require additional report(s). This is a fiscal report to establish the counties expenditures at mid-year to determine whether the county should begin receiving payments at mid-year or after the annual report.

N. Payments

Counties must have met all eligibility, spending, and grant condition requirements before receiving payments. Payments will be made quarterly for most counties. Some counties may have a special conditions related to meeting minimum statutory spending requirements. These counties will receive funds only after a supplemental expenditure report establishes that they have spent the predetermined minimum amount stated in the special condition.

No payment shall be made from grant funds to a county until all special conditions have been met unless the special condition adopted by the Task Force provides an alternative payment schedule or instructions for payment. Task Force staff shall maintain

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documentation through electronic/paper files or correspondence to the county stating how the special condition was met.

O. Maintain Official Contact Information

All counties must maintain the grant and plan officials contact information on counties' home page set up at <http://tfid.tamu.edu>. Counties must advise the Task Force of changes in the authorized official, program director, financial officer, local administrative district judge, local statutory county judge and county judge by updating this website contact information. This information will be used to provide notices for grant or plan submission information. The Task Force staff will use e-mail whenever possible to notify counties of required reports and funding opportunities.

P. Compliance with Task Force Requirements

All counties must be in compliance with Task Force expenditure report and plan submission requirements. Applications from counties that have not submitted statutorily required documents or have otherwise not submitted required documents to meet eligibility requirements will not be considered for funding. Counties must maintain compliance during the funding period.

Q. Conformity with Fair Defense Act and Countywide Plans

Actual indigent defense practices and procedures within the county must substantially conform to the Fair Defense Act and the Indigent Defense Information (Countywide Plans).

R. OCA Reporting

The applicants' county and district clerks must be in compliance with reporting requirements promulgated by the Texas Judicial Council as of August 31, 2006. The district clerks and county clerks must begin submitting their monthly court activity reports to OCA electronically not later than August 2006, unless they have obtained a waiver in writing from OCA.

S. Impact of Multi-year Discretionary Grant

Counties that receive multi-year discretionary grants from the Task Force are encouraged to continue applying for the Formula Grant. Formula Grant payments will be made as scheduled. The county will submit its annual Indigent Defense Expenditure Report on or before November 1 of each year. If the impact of the Multi-year funded program results in overall reduction of the county's indigent defense expenses below the baseline period then all or a portion of the formula grant may need to be returned to the Task Force as directed by the Task Force. Regional programs are exempt from this requirement.